IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

Bail Appl..No. 4551 of 2007()

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[CRIME NO.14/07 OF THRITHALA EXCISE RANGE]

PETITIONER/ACCUSED:

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SREEDARAN @ MANI, AGED 47,
S/O. VELU, PULIKKAL HOUSE, PERINGANOOR DESOM,
THIRUMITTAKODE PANCHAYATH, PALAKKAD DIST.

BY ADV. SRI.M.H.HANIL KUMAR
SRI.A.P.VASAVAN
SRI.C.J.DENNY

RESPONDENTS: COMPLAINANT/STATE:

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1. EXCISE INSPECTOR,
THRITHALA EXCISE RANGE, PALAKKAD DIST.,
REPPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, COCHIN-682 031.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, COCHIN-682031.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J.**

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B.A.No.4551 of 2007

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Dated this the 27th day of July 2007

**O R D E R**

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. On receipt of discreet prior information that contraband liquor was available in the possession of the petitioner, the excise party allegedly conducted inspection and recovered 8 litres of arrack from a cow shed behind the house of the petitioner on 14/7/2007 at 6.30 p.m. The petitioner was allegedly present. Seeing the excise party, he allegedly took to his heels and could not be arrested. Contemporaneous seizure mahazer and the crime and occurrence report prepared by the officials clearly reveal the complicity of the petitioner. The petitioner has not been arrested so far. He apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. According to him, he is an activist of the INTUC and he has several political opponents. He alleges that some of his political opponents may have given such false information to the excise officials and may have kept the contraband articles in the shed in his possession. In these circumstances, it is prayed that anticipatory bail may be granted in favour of the petitioner to save him from the undeserved trauma of arrest and detention.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that except a vague and

sweeping allegation in the petition that he has political connections and the allegations are raised against him with vexatious intent there is nothing tangible to support the said theory. At any rate, the available indications do not at all suggest the possibility of false implications and in these circumstances the powers under Section 438 Cr.P.C cannot and need not be invoked in favour of the petitioner, it is urged.

4. I have considered the submissions of the rival contestants. I have perused the case diary which has been made available to me by the learned Public Prosecutor. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am of the opinion that this is a fit case where the petitioner must resort to the ordinary and regular procedure of surrendering before the investigating officer or the learned Magistrate having jurisdiction and seek regular bail in the normal and ordinary course.

3. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

**(R.BASANT, JUDGE)**

jsr // True Copy// PA to Judge

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007